

## **REMARKS AND ARGUMENTS**

Reconsideration of the application in view of this Amendment and the following remarks and arguments is respectfully requested.

This Amendment amends claims 1, 5, 11, 15, 39 and 47; adds claims 48-49; and cancels claims 27 and 31. Claims 1-26, 28-30 and 32-49 are pending in this application. The specification has been amended to include information that was contained within U.S. provisional application no. 60/429,225 filed on November 26, 2002, which the instant application incorporated by reference upon its filing, and to correct minor errors. No new matter has been added.

### **Claim Rejections – 35 U.S.C. §102(b)**

Claim 47 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,420,606 to Paul G. Begum et al. Claim 47 has been amended to include the majority of limitations contained in originally filed claim 1 along with the new limitation of tracking the status of at least one advertising player. Support for this newly added limitation can be found in amended paragraph 0022 of the instant specification. Neither Begum nor the other cited prior art when taken alone or in combination, teach the tracking of the status of at least one advertising player.

Newly dependent claims 48 and 49 depend directly from, and contain all the limitations of, claim 47 as amended. Therefore, dependent claims 48 and 49 are also patentably distinct from the cited references for at least the reasons stated above. In addition, these claims, when taken together with claim 47, require further limitations that are not disclosed in the cited references either alone or in any combination.

### **Claim Rejections – 35 U.S.C. §103**

Claims 1-7, 11-20, 24-40, 45 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Begum in view of Klayh. The Examiner also bases his rejections of these claims on what is allegedly old and well known in the art. Applicant respectfully traverses the rejection of claim 18.

Claim 1:

Claim 1 has been amended to include the further limitations of reporting, directly from at least one advertising player to a primary server, statistics of invocation of advertisements. Neither Begum nor Klayh, when taken alone or in combination, teach the statistics gathered by an advertising player being directly reported to the primary server. Both citations contain some type of intermediary between the allegedly analogous advertising players and the allegedly analogous primary servers.

Dependent claims 2-17 depend either directly or indirectly from, and contain all the limitations of, claim 1 as amended. Therefore, dependent claims 2-17 are also patentably distinct from the cited references for at least the reasons stated above. In addition, these claims, when taken together with claim 1, require further limitations that are not disclosed in the cited references either alone or in any combination.

Claim 18:

Claim 18 was rejected as being unpatentable over Begum in view of Klayh. The Examiner points to Fig. 1, col. 3, lines 5-20 and col. 4, lines 5-10. Applicant respectfully traverses this rejection. Claim 18 requires that the remote advertising player sense the presence of a person proximate to a display of consumer goods. The only device in Begum that may be found to be analogous to the Applicant's advertising player as claimed herein is the message sending unit 58 as it alone, albeit indirectly, senses the presence of a person by sensing the communication unit 14 the person is using. (Col. 6, lines 11-21 and Col. 7, lines 46-50). Only the communication unit 14 reports when a coupon has been selected to the interface unit 45 that is located at the checkout counter. (Col. 4, lines 66-68 and Col. 5, lines 1-5). Therefore, the all of the limitations of claim 18 have not been shown or taught in the cited references.

Dependent claims 19-26, 28-30 and 32-38 depend either directly or indirectly from, and contain all the limitations of, claim 18. Therefore, dependent claims 19-26, 28-30 and 32-38 are also patentably distinct from the cited references for at least the reasons stated above. In addition, these claims, when taken together with claim 18, require further limitations that are not disclosed in the cited references either alone or in any combination.

Claim 39:

Claim 39 has been amended to include the further limitations of an advertising player containing a processor, among other things, wherein the processor receives advertisements directly from a primary server by way of a communication device and stores the advertisements in the RAM. Neither Begum nor Klayh, when taken alone or in combination, teach advertisements being supplied directly from a primary server to an advertising player.

Dependent claims 40-46 depend either directly or indirectly from, and contain all the limitations of, claim 39 as amended. Therefore, dependent claims 40-46 are also patentably distinct from the cited references for at least the reasons stated above. In addition, these claims, when taken together with claim 39, require further limitations that are not disclosed in the cited references either alone or in any combination.

CONCLUSION

Applicant has made an earnest attempt to place this application in condition for allowance. For at least the reasons stated above, and for other reasons clearly apparent, Applicant respectfully requests full allowance of the claims as amended, newly presented, or, where no amendment is offered, as previously presented. Reconsideration of this application in view of this Amendment and Response is therefore requested.

If there are matters, which can be discussed by telephone to further the prosecution of this application, Applicant respectfully requests that the Examiner call Applicant's attorney at the telephone number shown below.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 11-0307

Respectfully submitted,  
/Melissa M. Martinez/  
Melissa M. Martinez  
Registration No. 56,568

Keeling Patents and Trademarks  
3310 Katy Freeway, Suite 100  
Houston, Texas 77007  
(713) 579-3001  
(713) 579-3002 Fax